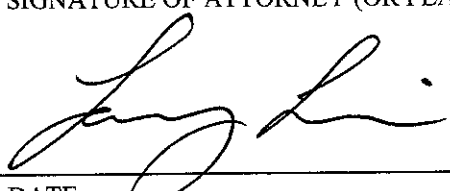


B1040 (FORM 1040) (12/15)

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b> Demrick Dewayne Davis 324 Bluebonnet Wichita Falls, TX 76302	<b>DEFENDANTS</b> High Performance Capital 34 Executive Park, Suite 180 Irvine, CA 92614			
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) Monte J. White + Associates, P.C. 1106 Brook Avenue Wichita Falls, TX 76301 (940) 723-0099	<b>ATTORNEYS</b> (If Known)			
<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Debtor request turnover of property of the Bankruptcy Estate. 11 U.S.C. Section 362(a)(6) 11 U.S.C. Section 542				
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b>  <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support  <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury  <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan  <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)  <input type="checkbox"/> 65-Dischargeability - other   <b>FRBP 7001(7) – Injunctive Relief</b>  <input type="checkbox"/> 71-Injunctive relief – imposition of stay  <input type="checkbox"/> 72-Injunctive relief – other   <b>FRBP 7001(8) Subordination of Claim or Interest</b>  <input type="checkbox"/> 81-Subordination of claim or interest   <b>FRBP 7001(9) Declaratory Judgment</b>  <input type="checkbox"/> 91-Declaratory judgment   <b>FRBP 7001(10) Determination of Removed Action</b>  <input type="checkbox"/> 01-Determination of removed claim or cause   <b>Other</b>  <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i>  <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table>			<b>FRBP 7001(1) – Recovery of Money/Property</b> <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23		
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ <b>7500.00</b>		
Other Relief Sought <b>Sanctions and Civil Contempt of Court</b>				

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <b>Demrick Dewayne Davis</b>		BANKRUPTCY CASE NO. <b>19-70159-HDH-13</b>
DISTRICT IN WHICH CASE IS PENDING <b>Northern District of Texas</b>		DIVISION OFFICE <b>Wichita Falls</b>
		NAME OF JUDGE <b>Hale</b>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING		DIVISION OFFICE
		NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE <b>7/8/19</b>		PRINT NAME OF ATTORNEY (OR PLAINTIFF) <b>Larry Lewis</b>

## INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

Monte J. White and Associates, PC  
Monte J. White  
1106 Brook Ave., Hamilton Place  
Wichita Falls, TX 76301  
(940)723-0099  
(940)723-0096 Fax

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE:	§	CASE NO. 19-70159-hdh-13
	§	
Demrick Dewayne Davis	§	CHAPTER 13
	§	
DEBTOR(S)	§	

MOTION FOR TURNOVER,  
SANCTIONS AND CIVIL CONTEMPT OF COURT

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above named debtor in the above-styled cause requests the Court to order turnover of property of bankruptcy estate to Debtor, find High Performance Capital, in civil contempt of court under Bankruptcy Rule 9020 and 11 U.S.C. § 362 (a)(6) and grant the debtor sanctions under 11 U.S.C. § 362 (h) and as grounds therefore would respectfully show the Court as follows:

JURISDICTION

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 105 and § 362.

FACTS

2. On June 13, 2019, the above-named debtor filed a voluntary petition for relief under Chapter 13 of the U.S. Bankruptcy Code.
3. On June 14, 2019, paralegal Brittany Reagan, of Monte J. White and Associates, P.C., contacted High Performance Capital by phone. Ms. Reagan was advised by "Kathy" that she would place a hold on the vehicle, locate the vehicle, and arrange for its return to the Debtor.
4. On June 17, 2019, "Kathy" contacted Monte J. White and Associates, P.C. and spoke with paralegal Sara Mueller. Mrs. Mueller was advised by "Kathy" that High Performance Capital would not be returning the vehicle. "Kathy" stated that High Performance Capital had just won a similar case in the Southern District of Texas and would not be returning the vehicle without a Court order.
5. On July 3, 2019, Ms. Reagan attempted to contact High Performance Capital in order to obtain a facsimile number for "Kathy" so that a formal demand letter may be sent. After being unable to obtain a facsimile number, a copy of the demand letter was sent by email to the recoveries department and mailed to High Performance Capital by certified mail (See

Exhibit A).

6. On July 8, 2019, Ms. Reagan received an email from Rene Gomez, recovery manager for High Performance Capital stating that they need a 3<sup>rd</sup> party authorization form completed even though they are aware of our representation of the Debtor and have spoke with this office previously. Additionally, the email stated that it does not appear that our demands are Court ordered (See Exhibit B).
7. The Debtor hereby requests that his vehicle be returned to him, that High Performance Capital be sanctioned in the amount of \$2,500.00, that Debtor be awarded \$2,500.00 for the loss of his vehicle after the bankruptcy petition was filed, and that Debtor's attorney, Monte J. White and Associates, P.C. be awarded \$2,500.00 in attorney fees for the preparation and defense of this motion.

PRAYER

WHEREFORE PREMISES CONSIDERED, the Debtor prays that the Court set this matter for hearing at its earliest opportunity and that the Court High Performance Capital in contempt of court and impose such sanctions as the Court deems appropriate including attorney's fees, and actual damages to the Debtor, Demrick Dewayne Davis, for the loss of his vehicle.

Respectfully submitted,

Monte J. White  
1106 Brook Ave., Hamilton Place  
Wichita Falls, TX 76301  
(817) 723-0099  
(817) 723-0096 fax

/s/Monte J. White  
Monte J. White  
State Bar No. 00785232  
Attorney for Debtor

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 8, 2019, a true and correct copy of the foregoing "Motion for Turnover, Sanctions and Civil Contempt of Court" was served on the following by U.S. Mail and the adverse party, High Performance Capital, by certified, return receipt requested mail.

Robert Wilson  
1407 Buddy Holly Avenue  
Lubbock, Texas 79401

High Performance Capital  
34 Executive Park Ste 18  
Irvine, CA 92614

William T. Neary  
1100 Commerce Street, 9C60  
Dallas, Texas 75302

/s/Monte J. White  
Attorney for Debtor